

**ARKANSAS BOARD OF APPORTIONMENT
PUBLIC MEETING**

(Taken July 29, 2011, at 9:40 a.m.)

**LITTLE ROCK
(501) 801-1801**

**FAYETTEVILLE
(479) 442-7111**



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APPEARANCES

ON BEHALF OF THE ARKANSAS BOARD OF APPORTIONMENT:

**THE HONORABLE MIKE BEEBE
GOVERNOR OF ARKANSAS
STATE CAPITOL, ROOM 250
LITTLE ROCK, ARKANSAS 72201
(501) 682-1010**

**THE HONORABLE MARK MARTIN
SECRETARY OF STATE
STATE CAPITOL, ROOM 256
LITTLE ROCK, ARKANSAS 72201
(501) 682-1010**

**THE HONORABLE DUSTIN MCDANIEL
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1 PROCEEDINGS

2
3 GOVERNOR BEEBE: All right. The meeting
4 will come to order. I've got me an agenda.
5 The first item on the agenda is a motion to
6 adopt the transcript of the previous meeting.
7 I so move -- if that's possible for me to
8 make a motion since there's only three of us.
9 Move the adoption of the transcript of the
10 previous meeting. Is there a second or a
11 vote on that?

12 ATTORNEY GENERAL MCDANIEL: I'll second
13 it.

14 SECRETARY OF STATE MARTIN: I say yes.

15 GOVERNOR BEEBE: Okay. Then it's
16 unanimous. Let the record reflect that the
17 transcript of the previous meeting has been
18 adopted.

19 New House and Senate Districts based on
20 2010 Census. Motion to adopt and file new
21 House Districts based on the 2010 Census. I
22 have asked, and I don't think this is
23 possible to be done -- kind of wanted to do
24 it like a court exhibit where you had
25 something -- but as I understand it, you've

1 got maps and I've got a map and he's got a
2 map. His map and my map look a lot a like.
3 And so you've got that map over there
4 somewhere, but you don't have an exhibit
5 number or anything on it. How are we going
6 to make sure in the record that the right one
7 is what we're adopting? Do you have some way
8 to do that?

9 COORDINATOR WOODSON: Well, yes, sir. I
10 guess we could take the file folders of the
11 map that you adopt and have the court
12 reporter mark those as exhibits and then that
13 would create the record. After that, I need
14 to walk downstairs and file it with the
15 Secretary of State for their file stamp.

16 GOVERNOR BEEBE: Okay. Is that the
17 latest map from my office?

18 COORDINATOR WOODSON: Yes. It's the
19 latest map from your office, and it's also
20 the latest map from the Secretary of State's
21 office. There's two.

22 GOVERNOR BEEBE: There's two?

23 COORDINATOR BEEBE: Two reports.

24 GOVERNOR BEEBE: Does he have one?

25 COORDINATOR WOODSON: No.

1 GOVERNOR BEEBE: Or is it the same as
2 mine?

3 COORDINATOR WOODSON: Yours are
4 identical.

5 GOVERNOR BEEBE: Okay. So you have a
6 map. Let's mark his map later on as Exhibit
7 whatever. You can call it 1 if you want to.

8 COORDINATOR WOODSON: Okay. We can do
9 that right now. We've got the Secretary of
10 State's Senate Report, and the Secretary of
11 State's House Report.

12 GOVERNOR BEEBE: Do we need to do them
13 together, or do we do them separate?

14 COORDINATOR WOODSON: I would do them
15 separately.

16 GOVERNOR BEEBE: Okay. Then mark one
17 Exhibit 1 House, Exhibit 1 Senate, as
18 reflecting the Secretary of State's proposed
19 maps. Can we do that?

20 COORDINATOR WOODSON: Yes, sir.

21 GOVERNOR BEEBE: Then mark Governor's
22 Senate Exhibit 2 and Governor's House Exhibit
23 2. Does that make sense?

24 COORDINATOR WOODSON: Yes, sir.

25 GOVERNOR BEEBE: Is that all right with

1 you?
2 SECRETARY OF STATE MARTIN: Yes, sir.
3 GOVERNOR BEEBE: Is that all right with
4 you?
5 ATTORNEY GENERAL MCDANIEL: Yes.
6 GOVERNOR BEEBE: All right. Having said
7 that, I move the adoption of Governor's House
8 Map 1.
9 ATTORNEY GENERAL MCDANIEL: Which is
10 Exhibit 2.
11 GOVERNOR BEEBE: Which is Exhibit 2, on
12 the House. Is there a second?
13 ATTORNEY GENERAL MCDANIEL: I second.
14 GOVERNOR BEEBE: All in favor, say aye.
15 ATTORNEY GENERAL MCDANIEL: Aye.
16 GOVERNOR BEEBE: Aye. I assume you're a
17 no.
18 SECRETARY OF STATE MARTIN: I'm a no.
19 GOVERNOR BEEBE: All right. I make the
20 same motion with regard to the Senate Map.
21 ATTORNEY GENERAL MCDANIEL: Second.
22 GOVERNOR BEEBE: All in favor, say aye.
23 ATTORNEY GENERAL MCDANIEL: Aye.
24 GOVERNOR BEEBE: Aye. I assume you're a
25 no.

1 SECRETARY OF STATE MARTIN: I am a no.
2 GOVERNOR BEEBE: Do you need another
3 motion?
4 COORDINATOR WOODSON: No, sir. For
5 clarity, could we call the Governor's Senate
6 Map Exhibit 3 instead of 2?
7 GOVERNOR BEEBE: I don't care.
8 COORDINATOR WOODSON: So we don't get
9 our twos and threes --
10 GOVERNOR BEEBE: All right. Let's just
11 make sure that the record is straight. The
12 Senate Governor's Map is going to be called
13 Exhibit?
14 COORDINATOR WOODSON: Three.
15 GOVERNOR BEEBE: And the House Governor's
16 Map is going to be called?
17 COORDINATOR WOODSON: Exhibit 2.
18 GOVERNOR BEEBE: Let the record reflect
19 that those are the two maps.
20 ATTORNEY GENERAL MCDANIEL: Wait a
21 minute. That leaves us with two Exhibit 1's
22 which are his. So if you're going to start
23 identifying them that way, maybe we ought to
24 do one, two, three, and four. SOS House, SOS
25 Senate, Governor's House.

1 COORDINATOR WOODSON: Or 1 and 1A so that
2 we don't have to change. But, yes, I think
3 you're correct.

4 ATTORNEY GENERAL MCDANIEL: Just so we
5 don't have two Exhibit 1's and two Exhibit
6 2's.

7 GOVERNOR BEEBE: Okay.

8 ATTORNEY GENERAL MCDANIEL: Or leave it
9 as it is. I think we're pretty clear.

10 GOVERNOR BEEBE: Yeah, I think we are
11 too. I mean, you've got Governor's House,
12 and what are you calling that numberwise?

13 COORDINATOR WOODSON: Exhibit 2.

14 (WHEREUPON, the document was marked as
15 Governor's House Map Exhibit 2 for
16 identification and is filed with the Secretary of
17 State's Office.)

18 GOVERNOR BEEBE: And you've got
19 Governor's Senate. What are you calling
20 that?

21 COORDINATOR WOODSON: Exhibit 3.

22 (WHEREUPON, the document was marked as
23 Governor's Senate Map Exhibit 3 for
24 identification and is filed with the Secretary of
25 State's Office.)

1 GOVERNOR BEEBE: And you've got Secretary
2 of State House. What are you going to call
3 that?

4 COORDINATOR WOODSON: Exhibit 1.

5 (WHEREUPON, the document was marked as
6 Secretary of State's House Map Exhibit 1 for
7 identification and is attached hereto.)

8 GOVERNOR BEEBE: And what are you going
9 to call Secretary of State Senate?

10 COORDINATOR WOODSON: Exhibit 1-A.

11 (WHEREUPON, the document was marked as
12 Secretary of State's Senate Map Exhibit 1-A
13 for identification and is attached hereto.)

14 GOVERNOR BEEBE: Is that okay with you?

15 SECRETARY OF STATE MARTIN: Yes, sir.

16 GOVERNOR BEEBE: Is that okay with you?

17 ATTORNEY GENERAL MCDANIEL: Absolutely.

18 GOVERNOR BEEBE: Let the record reflect
19 that, and then the record further reflects
20 that based on the vote, Exhibit 2 and Exhibit
21 3 were the two that were adopted, both being
22 the Governor's Proposed Senate Map and the
23 Governor's Proposed House Map.

24 COORDINATOR WOODSON: Yes, sir.

25 GOVERNOR BEEBE: Is that --

1 COORDINATOR WOODSON: That's correct.

2 GOVERNOR BEEBE: Are we accurate?

3 ATTORNEY GENERAL MCDANIEL: Yes.

4 SECRETARY OF STATE MARTIN: Yes, sir.

5 GOVERNOR BEEBE: Okay. All right. I
6 move that we allow our staff to -- do you
7 have any money left?

8 COORDINATOR WOODSON: Yes, sir. We've
9 got quite a bit in the budget. We've got
10 money set aside for professional fees and
11 money set aside for operating expenses and
12 salary.

13 GOVERNOR BEEBE: Because as I understand
14 it, you still have a requirement to assist
15 the counties and the cities and the school
16 districts with their redistricting process
17 based on the census.

18 COORDINATOR WOODSON: I don't think it's
19 a requirement, but I would like to do that if
20 the board would allow me.

21 GOVERNOR BEEBE: Has that been the norm
22 in the past?

23 COORDINATOR WOODSON: It has been. And I
24 know that the Secretary of State's office has
25 made a big push to do that, but I've had a

1 few requests myself for assistance, and I
2 thought it might be beneficial since --

3 GOVERNOR BEEBE: In fact, I think I read
4 where you indicated that you wanted to
5 provide these services for the cities and the
6 counties and the school districts.

7 SECRETARY OF STATE MARTIN: Yes, sir. We
8 have been doing that.

9 GOVERNOR BEEBE: And you have enough
10 money to assist in that regard?

11 COORDINATOR WOODSON: Yes, sir.

12 GOVERNOR BEEBE: Without any additional
13 money?

14 COORDINATOR WOODSON: Correct.

15 GOVERNOR BEEBE: Do you move that we do
16 that?

17 SECRETARY OF STATE MARTIN: No, I do not.

18 GOVERNOR BEEBE: You don't want to do
19 that?

20 SECRETARY OF STATE MARTIN: No, sir.

21 GOVERNOR BEEBE: Okay. Do you -- I move
22 we do it. I mean, what -- do you have a
23 reason we shouldn't do it?

24 SECRETARY OF STATE MARTIN: I believe it
25 falls outside of what the authority of the

1 Board of Apportionment was constituted to do,
2 and I believe it's a duty that's
3 traditionally rested with the Secretary of
4 State's office.

5 GOVERNOR BEEBE: So you want to do it?

6 SECRETARY OF STATE MARTIN: Yes, sir.

7 GOVERNOR BEEBE: Is that true? Is that
8 outside the authority of the -- Mr. Lawyer,
9 do you need time to think about it, and
10 should we delay action on this issue until
11 you have time to research it?

12 ATTORNEY GENERAL MCDANIEL: No. I think
13 that it is a completion of the work that has
14 been tasked and begun. I think that if we
15 tried to establish it as a permanent state
16 agency that went on ad infinitum, that would
17 be improper. But I think to approve
18 expenditures for our staff to complete the
19 work that they're already working on is very
20 appropriate.

21 COORDINATOR WOODSON: And essentially,
22 what I had in mind, Governor, was to continue
23 to disseminate information here in the short
24 term and just act as a supplement to what the
25 Secretary of State's office is doing. I'm a

1 one-person staff, and certainly, I can't
2 provide the services that they will. But
3 just to the extent that I've already got the
4 computer, already got the software, and
5 already know a little bit about the process
6 of just letting people avail themselves --

7 GOVERNOR BEEBE: How long do you
8 anticipate this is going to last?

9 COORDINATOR WOODSON: Well, however long
10 the Board wants it to last, a few weeks or a
11 few months.

12 ATTORNEY GENERAL MCDANIEL: How long
13 would it need to last?

14 COORDINATOR WOODSON: Well, it doesn't
15 need to last, you know, except for the very
16 short term. I would say the next few weeks,
17 so that we can make sure that we can get all
18 the information pushed out and available.
19 Other than, you know, two or three or four
20 weeks, I don't think it has to keep going.

21 GOVERNOR BEEBE: Would a month be
22 sufficient to get you through whatever it is
23 you're trying to augment?

24 COORDINATOR WOODSON: Sure.

25 GOVERNOR BEEBE: Is the primary

1 responsibility still in the Secretary of
2 State's office?

3 COORDINATOR WOODSON: I think
4 traditionally, absolutely.

5 GOVERNOR BEEBE: Are you doing this now,
6 Mark?

7 SECRETARY OF STATE MARTIN: Yes, sir.

8 GOVERNOR BEEBE: And you'll be doing it
9 even after a month from now?

10 SECRETARY OF STATE MARTIN: Yes, sir.

11 GOVERNOR BEEBE: Will a month give you
12 time to do that and close up shop and cease
13 to exist?

14 COORDINATOR WOODSON: Wind down.

15 GOVERNOR BEEBE: And will you be able to
16 save any money?

17 COORDINATOR WOODSON: Yes.

18 GOVERNOR BEEBE: At the end of a month?

19 COORDINATOR WOODSON: Well, sure. My
20 salary and rent and copier expenses --

21 GOVERNOR BEEBE: I mean, do you have
22 enough money to go the month and still have
23 any excess leftover?

24 COORDINATOR WOODSON: Oh, sure. There is
25 over \$200,000 in the operating account. This

1 position was appropriated through the end of
2 this fiscal year to next summer.

3 ATTORNEY GENERAL MCDANIEL: That's what I
4 was about to ask. If we don't vote on this
5 today, what's your understanding of your
6 current authority? Do you have to pack up
7 the minute our vote is over with, or are you
8 still there through the end of the year?

9 COORDINATOR WOODSON: My understanding is
10 I work at the pleasure of the Board and
11 whatever you all want me to do is --

12 GOVERNOR BEEBE: Well --

13 ATTORNEY GENERAL MCDANIEL: Well, let's
14 say we take no action -- sorry, I didn't mean
15 to interrupt.

16 GOVERNOR BEEBE: No, go ahead.

17 ATTORNEY GENERAL MCDANIEL: If we take no
18 action, what's your understanding of your
19 current authority as of today?

20 COORDINATOR WOODSON: I think it would
21 just continue on as is.

22 ATTORNEY GENERAL MCDANIEL: So we would
23 need to set a specific ending time if we were
24 going to -- before the end of this fiscal
25 year -- alter what the General Assembly has

1 already set out or what we've already
2 contemplated.

3 COORDINATOR WOODSON: Probably, yeah.

4 ATTORNEY GENERAL MCDANIEL: I don't think
5 we even need to have the Board staff in place
6 through the end of the year.

7 GOVERNOR BEEBE: No, not at -- what's --
8 do we know what's traditionally occurred? I
9 mean, if there's lawsuits or something, do
10 you come back?

11 COORDINATOR WOODSON: Well, that's
12 another question, is how to handle that.

13 GOVERNOR BEEBE: I'll tell you what my
14 thought is, why don't you -- why don't we do
15 30 days to wrap it up. You can provide
16 whatever assistance to the Secretary of State
17 with regard to these local things in 30 days,
18 with the understanding that you could be
19 called back if for any reason, by court order
20 or any other unforeseen activity, that's
21 necessary to get you back working and paid to
22 explain, defend, or whatever, the actions of
23 the Board of Apportionment as far as the
24 staff is concerned.

25 COORDINATOR WOODSON: Very good.

1 GOVERNOR BEEBE: Is that all right?

2 COORDINATOR WOODSON: Yes, sir.

3 GOVERNOR BEEBE: And that way you're not
4 going to still be doing stuff if you don't
5 need to be doing stuff after 30 days. That
6 means you've got to go find another job.

7 COORDINATOR WOODSON: My wife has been
8 after me about that.

9 SECRETARY OF STATE MARTIN: Let me make a
10 statement.

11 GOVERNOR BEEBE: Sure.

12 SECRETARY OF STATE MARTIN: The 30 days I
13 think would be appropriate. One of the
14 things that I'd like to point out where Joe's
15 work may be useful if we go within the 30
16 days is, is the maps that were just recently
17 -- were just adopted have an unprecedented
18 amount of actually breaking data up at the
19 block level that's going to be extremely
20 complex for the counties' election
21 commissioners and county clerks to implement.
22 If his work is actually concentrating on that
23 rather than duplicating the work of the
24 Secretary of State's office, the next month
25 that he spends actually trying to do that may

1 be something that would be useful and
2 productive.

3 GOVERNOR BEEBE: Do you understand what
4 he is talking about?

5 COORDINATOR WOODSON: I think so, just to
6 assist them in understanding the data as they
7 try to import it and redistrict their JP
8 seats.

9 SECRETARY OF STATE MARTIN: To create the
10 extremely complex ballots that are actually
11 going to be created by breaking all of these
12 districts in at the block level, which has
13 never really been done at that level before.
14 The complexity to the county clerks and the
15 election commissioners in creating ballots is
16 going to be immense.

17 COORDINATOR WOODSON: Sure. To the
18 extent that I'm able to do that, I'll be
19 happy to.

20 GOVERNOR BEEBE: Is that okay?

21 SECRETARY OF STATE MARTIN: Yes, sir.

22 ATTORNEY GENERAL MCDANIEL: Want to make
23 the motion?

24 GOVERNOR BEEBE: Do you want to make the
25 motion?

1 (No verbal responses.)

2 GOVERNOR BEEBE: I'll make the motion.

3 That's fine. Let's do that with that

4 concentration the Secretary of State

5 suggested, and at the end of 30 days, unless

6 there's another meeting of this Board and a

7 different action is taken, your duties will

8 cease.

9 COORDINATOR WOODSON: Very good.

10 GOVERNOR BEEBE: But you could be on call

11 to come back in the event that there's

12 unforeseen circumstances that would require

13 it.

14 Everybody? I vote aye. Do you vote aye?

15 ATTORNEY GENERAL MCDANIEL: Aye.

16 GOVERNOR BEEBE: Do you vote no?

17 SECRETARY OF STATE MARTIN: No.

18 GOVERNOR BEEBE: Okay.

19 ATTORNEY GENERAL MCDANIEL: You just said

20 yes.

21 GOVERNOR BEEBE: No, he said yes on what

22 he wants him to do.

23 ATTORNEY GENERAL MCDANIEL: Oh, okay.

24 GOVERNOR BEEBE: He still doesn't want

25 him to do it.

1 ATTORNEY GENERAL MCDANIEL: I got it.

2 GOVERNOR BEEBE: Computer software. Each
3 office keeps computer and software license.
4 Remaining licenses to the Secretary of
5 State's office. Any discussion on that?
6 What's the -- in other words, you'd keep
7 whatever you've got; the Governor's office
8 will keep whatever it's got; Secretary of
9 State's office would keep whatever its got;
10 and all remaining licenses would go to you.
11 You got thoughts?

12 SECRETARY OF STATE MARTIN: Well, all the
13 computer software that's actually been used,
14 computers and software and whatnot that's
15 been used by the Board of Apportionment, I
16 believe is subject to FOI. So for those that
17 do not immediately disappear into staff
18 that's actually protected by working papers,
19 may create difficulties of what our
20 requirements are for FOI.

21 GOVERNOR BEEBE: Okay. What does --

22 ATTORNEY GENERAL MCDANIEL: I don't --
23 first of all, anything that's in the
24 possession of the Board is subject to FOI and
25 cannot be made not subject to FOI ever, I

1 don't think. Just simply taking it from one
2 office to another doesn't create some
3 protection for it. It's still a Board
4 record. And I think all we're talking about
5 is the ownership of the licenses, not the
6 work product that's been produced by the
7 licenses. But, frankly, I don't care one way
8 or the other on this. You know, as you know,
9 we had to go and buy our own software.

10 GOVERNOR BEEBE: I don't care either.

11 ATTORNEY GENERAL MCDANIEL: I'd dole this
12 as a housekeeping matter, and, you know, I'll
13 defer to the recommendation of the staff on
14 it. I don't care one --

15 GOVERNOR BEEBE: What's the reason for
16 this? Because I don't know either.

17 COORDINATOR WOODSON: My only thought was
18 that each office keeps their own computer and
19 their own software just because they've
20 already got it. They did their work on it,
21 and that's that, and it would be easier just
22 to end that way. But certainly, everything
23 that's in my possession as staff of the
24 Board, that is absolutely subject to FOI.
25 And that was the only reasoning behind that

1 line item.

2 GOVERNOR BEEBE: I don't care. I mean,
3 it's --

4 SECRETARY OF STATE MARTIN: Well --

5 GOVERNOR BEEBE: If you think it would
6 adversely impact Freedom of Information Act,
7 I would just as soon you keep it all.

8 SECRETARY OF STATE MARTIN: Well, as long
9 as it's properly accounted for to where it
10 can be accessed for FOI, I don't have a
11 problem with supporting this amendment --
12 this motion.

13 ATTORNEY GENERAL MCDANIEL: If we don't
14 do it this way, it becomes subject to your
15 custody and you're responsible for keeping up
16 with it from now until, you know, the
17 historians of 2030 look at it.

18 GOVERNOR BEEBE: I would just a soon you
19 keep it.

20 ATTORNEY GENERAL MCDANIEL: Yeah, I'd
21 just as soon you keep it.

22 GOVERNOR BEEBE: All right. Let's -- you
23 keep it all. Is that all right?

24 SECRETARY OF STATE MARTIN: Somehow, I
25 got that -- I got that handed to me, didn't

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I?

GOVERNOR BEEBE: I mean, that was your suggestion.

SECRETARY OF STATE MARTIN: Yes. I think that --

ATTORNEY GENERAL MCDANIEL: That's the perfect example of, "Watch what you ask for."

GOVERNOR BEEBE: All right. Meeting is adjourned.

(WHEREUPON, the proceedings were concluded in the matter at 9:56 a.m.)

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CERTIFICATE

STATE OF ARKANSAS)
)ss
COUNTY OF GARLAND)

I, Sherri Renaud, Certified Court Reporter #690, do hereby certify that the facts stated by me in the caption on the foregoing proceedings are true; and that the foregoing proceedings were reported verbatim through the use of the voice-writing method and thereafter transcribed by me or under my direct supervision to the best of my ability, taken at the time and place set out on the caption hereto.

I FURTHER CERTIFY, that I am not a relative or employee of any attorney or employed by the parties hereto, nor financially interested or otherwise, in the outcome of this action, and that I have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original deposition transcript or copies of the transcript before it is certified and delivered to the custodial attorney, or that requires me to provide any service not made available to all parties to the action.

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WITNESS MY HAND AND SEAL this 8th day of August,
2011.

SHERRI RENAUD

Arkansas State Supreme Court
Certified Court Reporter #690

<hr/> A <hr/>	authority 12:25 13:8 16:6,19	clear 9:9
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